IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL APPELLATE JURISDICTION
WRIT PETITION NO.2755 OF 2006.

Sai Dwarika Seva Bhavi Mandal ..Petitioner

versus

Mumbai Municipal Corporation
of Gr.Bombay ..Respondent.

Mr.A.R.Pande for the Petitioner

Ms. Trupti Puranik, for BMC-respondent.

Coram : B.H.Marlapalle &
S.R.Sathe, JJ.
Dated : 18th June, 2007

P.C.

1. Heard Mr. Pandey, learned Counsel for the petitioner. We have perused the reply filed by the A.G.P. for the respondent Corporation.

2. The Corporation has clarified that in Public Interest Litigation petition No.2063 of 2002 filed by Janhit Manch, this Court has directed the Municipal Corporation to remove the religious structures on the road etc, if they are on public places. The subject temple was also found to be one of such religious structure required to be removed and therefore the Corporation issued notice to the petitioner under Section 314 r/w.394 of the Mumbai Municipal Corporation Act, 1888 on 15.7.2006 and called upon the petitioner to remove the Saibaba

Temple from the public place i.e. Military Road, within 48 hours from the date of the notice. The Chairman of the petitioner's mandal replied to the said notice and stated that he would take steps to shift the temple within 10 days. As this undertaking was not maintained, the Corporation Officers demolished the temple on 21.7.2006 with the help of the local police station and submitted the report of demolition to this Court.

3. In these circumstances, we do not find any error committed by the City Civil Court in refusing to entertain the Civil Suit or directing the petitioner to approach this Court. The steps taken by the Corporation were in compliance with the orders passed by this Court in Writ Petition (PIL) No.2063 of 2003 and the reply given by the petitioner's Chairman itself indicated that the temple was on the public road.

4. We, therefore, do not find any case to entertain this petition and the same is rejected summarily.

(S.R.Sathe, J.) **(B.H.Marlapalle, J.)**